

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ALARIC F. SIMON,

Plaintiff,

Case No. C-3-05-191

-vs-

District Judge Thomas M. Rose

**MIAMI COUNTY INCARCERATION
FACILITY, et al.,**

Defendants

**ENTRY AND ORDER OVERRULING PLAINTIFF'S OBJECTIONS (DOC. #38) TO THE
REPORT AND RECOMMENDATIONS (DOC. #32) ISSUED BY CHIEF MAGISTRATE
MERZ ON NOVEMBER 28, 2005, ADOPTING SAID REPORT AND
RECOMMENDATIONS (DOC. #32) AND MAGISTRATE JUDGE'S SUPPLEMENTAL
REPORT AND RECOMMENDATIONS (DOC. #40) IN THEIR ENTIRETY,
DISMISSING PLAINTIFF'S COMPLAINT AS TO DEFENDANT'S COMPASS GROUP
USA, INC. AND SUPERVISOR MIKE WITHOUT PREJUDICE**

This case is before the Court on Plaintiff's Objections (Doc. #38) to the Report and Recommendations (Doc. #32) of the United States Chief Magistrate Judge that the case against Defendants Compass Group U.S.A. Inc. (incorrectly identified in the Complaint as Canteen Correctional Food Services) and an employee referred to as Supervisor Mike.

Subsequent to the Objections (Doc. #38), the Chief Magistrate Judge, pursuant to the General Order of Reference for the Dayton location of Court reconsidered his previous Report and Recommendations (Doc. #38) and issued a Supplemental Report and Recommendations; Order Striking Portions of Plaintiff's Memorandum in Opposition (Doc. #40) again recommending that the claims against the named Defendants be dismissed without prejudice for lack of service of process.

As required by 28 U.S.C. 636(b) and Fed. R. Civ. 72(b), this District Judge has made a de novo review of the record in this case. Upon said review, the Court finds the Objections (Doc. #38) to the original Report and Recommendations (Doc. #32) are not well-founded and are hereby OVERRULED.

Accordingly, the Chief Magistrate Judge's Report and Recommendations (Doc. #32) and Supplemental Report and Recommendations (Doc. #40) are ADOPTED. The Motion to Dismiss filed by Defendants is GRANTED. Said Complaint as to these moving Defendants is hereby DISMISSED without prejudice.

IT IS SO ORDERED.

February 8, 2006

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE